



**Australian Government**

**Department of Infrastructure and Transport**

## **EXPOSURE DRAFT OF THE NAVIGATION BILL**



## INTRODUCTION

1. The *Navigation Act 1912* is Australia's primary legislation regulating ship and seafarer safety, shipboard aspects of protection of the marine environment and employment conditions for Australian seafarers. It is a key legislative vehicle to give domestic effect to Australia's port state control responsibilities and implements a range of international conventions covering matters such as the safety of life at sea; training and certification of seafarers; prevention of collisions at sea; watertight integrity and reserve buoyancy of ships; pollution prevention standards for ships; safety of containers, salvage; and regulations to determine gross and net tonnage of ships.
2. The *Navigation Act 1912* is 100 years old. In the course of its lifetime it has been amended many times, often on an ad hoc basis without a strategic focus. As a result, it embodies a mix of archaic and modern concepts. At the NATSHIP 2009 Conference in Sydney on 5 June 2009, the Minister for Infrastructure and Transport, the Hon Anthony Albanese MP, announced that the Government would rewrite the *Navigation Act 1912*.
3. The Minister stated that the *Navigation Act 1912* would be redrafted in plain language, to reflect contemporary conditions and practices, to do away with unnecessary and out-dated provisions, and provide much-needed confidence and certainty for industry.
4. Work on the 'rewrite' of the *Navigation Act 1912* has progressed to the stage where the Department of Infrastructure and Transport (the Department) has sought and received permission from the Cabinet to release a draft of the Navigation Bill to stakeholders for comment.
5. Upon Royal Assent the Navigation Bill will be known as the *Navigation Act 2012*.

**LEGISLATION REGIME**

**CURRENT**

**LIGHTHOUSES ACT 1911**

Repealed and modernised

**FUTURE**

**NAVIGATION ACT 2012**

**NAVIGATION ACT 1912**

Regulated Australian Vessels & foreign flagged vessels

**MARINE SAFETY (DOMESTIC COMMERCIAL VESSELS) NATIONAL LAW**

Domestic Commercial Vessels on interstate voyages

**NAVIGATION ACT 1912  
PART VI – COASTAL SHIPPING**

Coastal Shipping Reform

**COASTAL TRADING BILL**

- COASTAL SHIPPING REFORM PACKAGE
- Australian International Shipping Register Bill
- Shipping Reform (Tax Incentives) Bill
- Tax Laws Amendment (Shipping Reform) Bill
- Coastal Trading (Consequential Amendments And Transitional Provisions) Bill

## **CONSULTATION**

### **DISCUSSION PAPER 2010**

6. A discussion paper canvassing issues on the planned rewrite of the *Navigation Act 1912* was provided to stakeholders in the first half of 2010, with comments closing on 30 July 2010. A total of 41 submissions were received in response to the discussion paper with widespread support for the process and goals of the rewrite.
7. Since this time there have been a number of changes in the legislative approach envisaged in 2010, prompted in large part by the outcomes of the broader maritime reform agenda. The *Navigation Act 1912* rewrite is one of the pillars of the Government's maritime reform agenda, which also includes the development of an integrated shipping reform package aimed at providing a platform for investment to support the viability and long-term growth of the Australian shipping industry; the development of the Marine Safety (Domestic Commercial Vessel) National Law that gives effect to the Council of Australian Government's (COAG) decision of 2 July 2009 to establish a national system for maritime safety regulation; as well as Australia's ratification of the International Labour Organization's Maritime Labour Convention (MLC).
8. A table articulating the key questions and issues raised in the Discussion Paper in 2010 and how these have been addressed through the development of the Navigation Bill or related legislation is attached to this paper for information.

### **WHOLE OF GOVERNMENT CONSULTATION**

9. The Navigation Bill has been developed in close cooperation with the Australian Maritime Safety Authority (AMSA), who has dedicated resources and expertise to ensure that the Bill reflects contemporary maritime practice, provides a best practice regulatory approach and gives effect to Australia's international obligations under various Conventions e.g. Safety of Life at Sea, MARPOL, Loadline, Tonnage etc.
10. The Department has consulted widely with Government stakeholders to ensure that the Navigation Bill accords with whole of Government objectives.

11. For instance, the Department of Education, Employment and Workplace Relations (DEEWR) has provided advice and input into the employment provisions in the new Chapter 2 of the Navigation Bill, in particular to ensure that the Bill gives effect to the MLC.
12. The Department has engaged with the Department of Resources, Energy and Tourism on issues relating to the offshore industry; Defence in relation to Naval vessels and the Royal Australian Navy Hydrographic Service; and Customs and Border Protection in relation to Customs vessels.
13. The Attorney-General's Department has been consulted on the breadth and application of the Navigation Bill and on international law issues.

## **REFORM PROCESSES**

### **The Marine Safety (Domestic Commercial Vessel) National Law Bill**

14. At the COAG meeting of 19 August 2011, First Ministers signed an Intergovernmental Agreement (IGA) for the establishment of a single national regulator for domestic commercial vessel safety in Australia. This historic agreement is the culmination of extensive negotiation between the Commonwealth, States and Territories and will see AMSA become the national regulator for maritime safety from 1 January 2013.
15. The COAG decision reflected recommendations made by the Australian Transport Council (ATC) in May 2009, which in turn were informed by a Regulation Impact Statement (RIS) that identified problems with the current regulatory framework and considered alternate options for national maritime safety regulation. The RIS incorporated feedback provided in over 90 written submissions and 22 public meetings held around Australia.
16. The Marine Safety (Domestic Commercial Vessel) National Law Bill (the National Law) will be introduced to the Commonwealth Parliament in 2012 and will give effect to the IGA. The National Law and the Navigation Bill are designed to work in a complementary manner to provide a consistent national framework for commercial vessel safety.

17. Through the national reform process and the development of supporting legislation jurisdictional arrangements for different kinds of vessels have been clarified. This will provide additional certainty for industry and will prevent the current situation where a vessel may move between regulatory regimes depending on the kind of voyage it undertakes. Australian registered commercial vessels undertaking overseas voyages and all foreign flagged vessels, regardless of voyage, will fall within the jurisdiction of the Navigation Bill. It should be noted that there will be a capacity to exempt certain vessels from coverage by the Navigation Bill, for example, if the only overseas voyage is for the purposes of getting to Australia.
18. All domestic commercial vessels, i.e. commercial vessels that operate only within the Australian Exclusive Economic Zone will fall to the jurisdiction of the National Law.

### **Coastal shipping reform**

19. The House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government report '*Rebuilding Australia's Coastal Shipping Industry*' released on 20 October 2008, examined a range of issues relating to the coastal shipping trade, currently regulated under Part VI of the *Navigation Act 1912*.
20. In response to the issues raised the Government has developed an integrated reform package aimed at providing a platform for investment to support the viability and long-term growth of the Australian shipping industry. The package will, inter alia, repeal Part VI of the *Navigation Act 1912* and replace it with a new Coastal Trading Act to establish a three tier licensing framework for participation in Australian coastal shipping. The regime will apply to all passenger and trading vessels on interstate voyages, with the new legislation to provide for the operation and administration of the new regulatory framework including transitional arrangements.

### **The Maritime Labour Convention**

21. Australia has ratified the International Labour Organisation's (ILO) Maritime Labour Convention, 2006 (No. 186) (MLC) and the Convention is expected to come into force internationally sometime in 2013.

22. The MLC will place new obligations on member states regarding the working conditions of seafarers on ships, and ensure that member states comply with and enforce those rights and principles. The *Navigation Act 1912* is one of the principal vehicles giving effect to the MLC and the current Act was amended by the *Navigation Amendment Act 2011* to give effect domestically to the MLC. The Navigation Bill will retain the policy parameters established by the *Navigation Amendment Act 2011*.
23. The employment provisions contained in Part II of the *Navigation Act 1912* have been rewritten to reflect contemporary industry practice and to ensure ongoing compliance with the MLC. These provisions, contained in Chapter 2 of the new Navigation Bill will apply seafarer employment provisions as well as MLC requirements, to vessels registered under the *Shipping Registration Act 1981* and which undertake overseas voyages. The Navigation Bill will work in concert with provisions of the National Law and relevant State and Territory legislation to give full domestic effect to the MLC.
24. The MLC will enter into force internationally 12 months after it is ratified by the required number of member states. It should be noted that the Navigation Bill could therefore be passed before the MLC enters into force internationally.
25. In that case, any provisions of the Navigation Bill that specifically rely on the entry into force of the MLC for commencement will have a later commencement date than other provisions of the Act. As Australia was already largely compliant with the MLC by virtue of provisions of the current *Navigation Act 1912* or other legislation the number of provisions affected will be small.

### **Maritime Offences and Penalties**

26. Minister Albanese announced a review of the offence and penalty provisions in marine environment legislation on 18 April 2010 in light of the *Shen Neng 1* incident in Queensland. The review examined the offence and penalty provisions of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and the *Navigation Act 1912* in conjunction with Environment legislation (*Great Barrier Reef Marine Park Act 1975* and *Environment Protection and Biodiversity Conservation Act 1999*).

27. The Review of Offences and Penalties recommended that penalties related to safety and environmental protection in maritime legislation be modernised and that a civil penalty regime be introduced to the *Navigation Act 1912* to allow for significantly higher penalties in response to safety and environmental breaches.
28. Initial action to give effect to these recommendations was taken through the *Maritime Legislation Amendment Act 2011* (MLA Act), which passed through Parliament in November 2011 and received royal assent on 4 December 2011. The MLA Act 2011 amended both the *Navigation Act 1912* and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*. The amendment to the *Navigation Act 1912* created offences for Australian and foreign Masters who operate a ship in a manner that causes pollution or damage to the marine environment. It also creates a series of criminal and civil penalties for offences causing environmental damage or pollution and for related aggravated offences.
29. Amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* increased penalties for discharge of oil or oily residues from ships to a maximum of \$11 million dollars..

## **SUMMARY OF KEY CHANGES**

### **General changes**

30. As previously flagged, the main focus of the rewrite of the *Navigation Act 1912* has been to modernise, streamline and clarify the legislation and to ensure that it reflects contemporary maritime industry practice. This has resulted in a number of changes to concepts within the Bill.
31. Concepts such as the Receiver of Wreck and the requirement to notify details of wreck by posting on a Customs House have been removed while retaining, where appropriate, the intention of the original provisions. For instance, AMSA will now notify the public about details of wreck through their website and in nautical publications.

32. In addition, archaic provisions or those provisions that do not relate to the main purpose of the Navigation Bill (for example, regulation around fares for passage and notifying a Master before taking a lunatic on board a vessel) have been removed.
33. The language in the Bill has also been updated to reflect modern legislative drafting standards and to improve the accessibility and clarity of the Bill for stakeholders. Terms such as 'mulct' and 'transire' that have no modern usage have been removed or updated to reflect modern language usage.

### **Change to definition of 'overseas voyage'**

34. The *Navigation Act 1912* applies to a trading ship that undertakes an overseas voyage. In the *Navigation Act 1912*, overseas voyage means voyage in the course of which the ship travels between:
- a. a port in Australia and a port outside Australia;
  - b. a port in Australia and a place in the waters of the sea above the continental shelf of a country other than Australia;
  - c. a port outside Australia and a place in the waters of the sea above the continental shelf of Australia;
  - d. a place in the waters of the sea above the continental shelf of Australia and a place in the waters of the sea above the continental shelf of a country other than Australia;
  - e. ports outside Australia; or
  - f. places beyond the continental shelf of Australia.
35. The definition of 'overseas voyage' has been simplified in the new Bill. A vessel is considered to be on an overseas voyage if, in the course of that voyage, the vessel is present outside the outer limits of the EEZ of Australia.
36. The new definition is intended to ensure that all Australian vessels which travel onto the 'high seas' maintain maritime safety and environmental standards appropriate for that voyage.
37. The changed definition should not result in a change in the number or type of vessels that fall within scope of the legislation.

## Application of the Navigation Bill

38. The Navigation Bill 2012 will apply to all regulated Australian vessels at all times, to foreign vessels as indicated and in other circumstances to all vessels.
39. A vessel is a regulated Australian vessel if the vessel that is not a recreational vessel that is registered, or is required to be registered, under the *Shipping Registration Act 1981*, and any of the following apply:
- i. the vessel is proceeding on an overseas voyage or is for use on an overseas voyage;
  - ii. a certificate under the Act is force in relation to the vessel;
  - iii. an opt-in declaration is in force in relation to the vessel.
40. Exemptions will be available through AMSA for vessels undertaking one time voyages, for example, to deliver a vessel intended to be operated exclusively within the Australian exclusive economic zone (EEZ) and which will be regulated under the Marine Safety (Domestic Commercial Vessel) National Law.
41. Fishing vessels are currently regulated by the *Navigation Act 1912* if they undertake an international voyage (the definition of which currently includes a voyage from a port in Australia and a place in the waters of the sea above the continental shelf of a country other than Australia), and while there is the potential to capture fishing vessels in the Navigation Bill that are not currently regulated through the *Navigation Act 1912*, current regulatory processes around fishing vessels will be maintained where possible.
42. What this will mean in practice is that long-range fishing vessels will be under the coverage of the Navigation Bill, except where a declaration is in place to allow for certification under State schemes, or where international Convention obligations such as SOLAS or STCW do not apply.
43. The Navigation Bill will apply to all foreign flagged vessels regardless of the voyage they are undertaking, other than in the course of innocent passage through Australian waters. This includes those engaged in the off-shore industry, which are currently under State jurisdiction unless they choose to declare.

44. AMSA is provided with clear authority in the Navigation Bill to conduct port state control inspections in line with international convention requirements and resolutions of the International Maritime Organization (IMO) and the International Labour Organization (ILO). The Commonwealth's Office of International Law has advised that there is no constitutional or international law obstacle to applying the Navigation Bill to all vessels, whether Australian or foreign, that fall within the application of the Bill.
45. In addition, there are some provisions of the Navigation Bill that will apply to all vessels, such as those that relate to obligations to render assistance or report dangers to navigation. It should be noted that each Part of the Bill includes a simplified outline that explains the Part, and in most cases, an application provision that specifies those vessels to which the Part applies.
46. The Navigation Bill also provides a mechanism for certain vessels to opt in to coverage of the Act via an application to AMSA. 'Opt in vessels' will be subject to all requirements of the Act. Any vessel choosing to opt in must be a seaworthy vessel that is registered under the *Shipping Registration Act 1981* and must meet any other conditions that are prescribed in the Regulations. Opt in vessels will also be required to hold applicable certificates issued in accordance with international conventions.
47. Vessels that are registered on the proposed Australian International Shipping Register will be regulated under the Navigation Bill for the purposes of safety and environment protection. The relationship between the Navigation Bill and the Australian International Shipping Register Bill will be finalised as part of the drafting process of the Bills.

#### **Removal of the concept of a 'Commonwealth Ship'**

48. The Navigation Act 1912 includes the concept of a Commonwealth Ship i.e. a ship that belongs to the Commonwealth or in which the Commonwealth has a beneficial interest, including a ship chartered by the Commonwealth. This concept has been removed from the new Bill with the result that vessels owned by a Commonwealth entity that restricts its operations to within the EEZ will now fall to the jurisdiction of the National Law. Commonwealth vessels that operate beyond the EEZ will fall within scope of the Navigation Bill.

## **Tailored arrangements for Customs and Border Protection Vessels**

49. The *Navigation Act 1912* currently applies differently to Commonwealth vessels and to those vessels contracted for Commonwealth purposes. The latter are required to comply with all standards relating to ship construction, ship survey and safety, carriage and handling of cargoes, passengers and marine pollution prevention. While it is proposed to remove the concept of a Commonwealth Ship from the Bill Customs and Border Protection Service vessels, such as the *Triton* and the *Ocean Protector*, will continue to be subject to the *Navigation Act* because they voyage beyond the EEZ. However, due to the nature of their operational role these vessels are unable to comply with all *Navigation Act 1912* requirements. Currently AMSA as the regulator, is asked to provide exemptions on a case by case basis. This situation is not ideal from a maritime safety perspective and is not sustainable in the longer term.
50. It is proposed that in the Navigation Bill those Customs and Border Protection Service vessels that undertake an overseas voyage i.e. travel beyond the EEZ, and which will not be able to comply fully with Navigation Bill requirements will be specifically identified in agreement with AMSA and subjected to differential treatment. Under this approach Customs and Border Protection Service will be required to determine all areas which, for operational reasons, their vessels cannot comply with seafarer certification or vessel safety requirements and standards and to identify alternative arrangements to enable them to appropriately manage the related risk. The adequacy of these alternative arrangements will be assessed by a recognised classification society, and implementation of those arrangements will be subject to periodic audit by AMSA.

## **Marine Aids to Navigation**

51. The provisions of the *Lighthouses Act 1911* have been incorporated into the Navigation Bill, which will also repeal that Act. As part of this process the provisions have been modernised and it is proposed that the definition of 'aid to navigation' be updated to ensure that the legislation reflects current maritime practice and is sufficiently flexible to keep pace with technological change.

52. The definition has been updated to include physical aids like lighthouses, beacons and buoys, but also electronic aids (like radar beacons, VHF marine radio, Automatic Identification System (AIS), Differential Global Positioning System (DGPS), Global Navigation Satellite Systems (GNSS)), and meteorological and oceanographic sensors.
53. It was proposed in the Discussion Paper in 2010 that the *Navigation Act 1912* rewrite would introduce a requirement for audit of aids to navigation systems operated by any state or territory, port authority or other body, consistent with the IALA Guidelines on auditing navigational aids. This proposal has not been addressed in the Navigation Bill and it is proposed that this be considered further in the period leading up to the IMO mandatory audit of aids to navigation requirements coming into force in 2014. However a requirement for ports to advise AMSA of any change to existing aids, or introduction of new aids has been included.

### **Hydrographic Services**

54. The Navigation Bill recognises the important role and functions of the Royal Australian Navy (RAN) Hydrographic Service in undertaking hydrographic surveys and publishing charts for Australian waters. This is the first time that this function, first ascribed to the RAN by Cabinet in 1946, has been recognised in legislation.

### **Introduction of a Civil Penalty Regime**

55. Civil penalties are financial penalties, determined in the courts, that do not involve criminal liability. The introduction of a civil penalty regime provides the regulator with an option to enforce legislative requirements other than by prosecuting for criminal offences. The *Maritime Legislation Amendment Act 2011* established a civil penalty scheme in the *Navigation Act 1912* by which civil penalty provisions may be enforced through applications for civil penalty orders. This has been replicated in the Navigation Bill.
56. Civil penalties also allow the regulator to seek a higher penalty in cases of serious or aggravated behaviour. Civil penalties are widely used across Commonwealth and State.

**FEEDBACK**

If you have any concerns or queries related to the exposure draft of the Navigation Bill could you please detail the matter below and send to .

[navactrewrite@infrastructure.gov.au](mailto:navactrewrite@infrastructure.gov.au).

<b>Chapter Part Section</b>	<b>Issue / query</b>

**Would you like to discuss the matter(s) you have raised further?**

**Yes / No**

**Please provide your name and contact details:**

**Name:**

**Position**

**Organisation**

**Email address**

**Telephone number**

	2010 discussion paper	Policy Imperative	Navigation Bill
1.	<p>Objectives of the rewrite are to:</p> <ul style="list-style-type: none"> <li>recast the Act in modern plain language;</li> <li>reflect contemporary conditions and practices of the shipping industry;</li> <li>remove unnecessary and out-dated provisions;</li> <li>enhance ship safety and protection of the marine environment;</li> <li>introduce greater flexibility to allow regulation to remain contemporary with national and international standards; and</li> <li>provide confidence and certainty for industry.</li> </ul>	<p>The Navigation Bill is considered to have met the intended objectives.</p>	<p>The object of the Bill is to promote the safety of life at sea, safe navigation and the prevention of pollution of the marine environment.</p>
2.	<p>Possible structure of the legislation package</p> <p>The preferred approach is to create a new <i>Maritime Safety Act</i>, which would incorporate the <i>Lighthouses Act 1911</i> and retain provisions of the current Act relating to ship and seafarer safety, wreck and salvage and ship certification and survey under the MARPOL marine environmental protection convention.</p>	<p>While the intention was that there would be a new Bill focussed on maritime safety and that some provisions would be retained in the <i>Navigation Act 1912</i>, it became clear that in order to address the range of maritime reforms in as clear and logical manner as possible it was better to develop a series of standalone Bills. These include:</p> <ul style="list-style-type: none"> <li>the Navigation Bill</li> <li>the Shipping Reform package of legislation; and</li> <li>the Marine Safety (Domestic Commercial Vessel) National Law Bill.</li> </ul> <p>The <i>Navigation Act 1912</i> will be repealed following passage of the Navigation Bill.</p>	<p>The Navigation Bill is about maritime safety, seafarers and prevention of pollution of the marine environment. It provides for matters relating to the following:</p> <ul style="list-style-type: none"> <li>(a) seafarers ;</li> <li>(b) the safety of regulated Australian vessels and foreign vessels;</li> <li>(c) prevention of pollution;</li> <li>(d) tonnage;</li> <li>(e) the safety of navigation;</li> <li>(f) wrecks and salvage;</li> <li>(g) compliance with, and enforcement of, the Act</li> <li>(h) other general matters that relate to the above</li> </ul> <p>With application to Regulated Australian Vessels and foreign flagged vessels.</p>
3.	<p>When the structure of the new legislation is settled, it will be necessary to consider how any new primary legislation will operate, and the role of subordinate legislation under the new approach.</p>	<p>The Bill has been drafted in consultation with AMSA and the Office of Parliamentary Counsel and with consideration of best practice regulatory drafting. The Navigation Bill has been designed to reflect modern drafting standards and provide clarity and logical structuring of Chapters and Parts.</p> <p>A comprehensive review of existing Regulations and Marine Orders will be conducted and new Regulations and Marine Orders developed to support the new legislation.</p>	<p>Refer to draft Bill for structure and Contents</p>
4.	<p>Marine Orders would retain a significant role under this legislative structure.</p>	<p>Marine orders are disallowable instruments made by the CEO of AMSA. This process is considered to be robust and transparent with appropriate levels of consultation and oversight, and no changes will be made to the process in the Navigation Bill.</p>	<p>Marine Orders will continue to detail the specific technical requirements of provisions in the Navigation Bill. The modernisation of the <i>Navigation Act 1912</i> has meant that the Navigation Bill will provide a head of power to make Regulations,</p>

			in relation to matters contained in the Bill, with the Marine Orders, which have the same force of law as the Regulations, describing the more technical or operational aspects of the Bill's requirements.
5.	The new Act is intended to provide the main legislative vehicle for implementing the national maritime safety regulator being developed by COAG	The Office of Parliamentary Counsel has advised that cooperative laws schemes such as the Marine Safety (Domestic Commercial Vessel) National Law Bill are normally stand alone pieces of legislation. As a consequence the National Law is now being progressed as a separate Act.	Refer to the Marine Safety (Domestic Commercial Vessel) National Law Bill
6.	The new Act would seek to address existing gaps in coverage of certain shipping operations in Australian waters. Concerns were raised about the potential regulatory gaps in coverage of foreign vessels that do not enter mainland ports in Australia.	<p>The Navigation Bill will apply to all foreign flagged vessels, regardless of the type of voyage and AMSA will be able to exercise port state control in relation to these vessels.</p> <p>Department has sought and received legal advice that indicates that AMSA is unable to exercise port-State control over foreign vessels not entering a port in the traditional sense. If ships are not engaging in innocent passage in the territorial sea and are breaching Australia's laws there might be action Australia could take to prevent certain breaches of international or Australian law because International law provides the ability for Australia to exercise coastal State powers in Australia's territorial sea and EEZ. This power includes a graded response depending upon the severity of the breach of law and the location of the breach. In the EEZ, Australia is able to exercise limited powers under existing international law with respect to things like piracy, drug-smuggling or significant pollution of the marine environment.</p>	The Navigation Bill does not intend to extend the jurisdiction of the legislation beyond the constraints of international law.
7.	The creation of civil penalty provisions based on strict liability offences may be an option	<p>The introduction of a civil penalty regime in the Navigation Bill provides the means, other than by prosecuting for criminal offences, through which compliance with the requirements of the Bill can be enforced.</p> <p>The Maritime Legislation Amendment Act 2011 that passed through Parliament in November 2011, established a civil penalty scheme by which civil penalty provisions may be enforced through applications for civil penalty orders.</p>	The Navigation Bill creates a civil penalty in addition to criminal penalties for offences in the Bill in the majority of cases.
8.	The Department and AMSA are also exploring options to introduce or enhance powers for AMSA	AMSA powers around detention and the application of control inspections, flag state and port state, are considered to be	The Navigation Bill has not substantially altered the powers of AMSA or its Inspectors. The Bill has simplified and clarified the

		appropriate to meet international obligations as well as maintain regulatory oversight of the highest standards for seaworthiness and safety matters.	application of those powers.
9.	The new Act will clarify that AMSA's power is limited to order or undertake removal of both ordinary and historic wrecks to reflect the legislation's safety and environmental protection objectives.	Provisions dealing with wreck have been modernised to reflect current industry practice and the extant cooperative arrangements in place between the Commonwealth and jurisdictional maritime authorities.	AMSA will be responsible for wreck of vessels that fall within scope of the Navigation Bill where the wreck occurs in the territorial seas or within the EEZ.  State and Territory maritime authorities will maintain responsibility for wreck in ports, on the coast or in internal waterways.
10.	It is currently proposed to absorb the <i>Lighthouses Act 1911</i> into the new <i>Maritime Safety Act</i> . The provisions would be updated to reflect the guidelines of the International Association of Lighthouse Agencies and the International Maritime Organization.	The <i>Lighthouses Act 1911</i> has been incorporated into the Navigation Bill and provisions relating to Aids to Navigation have been updated to ensure that the legislation reflects current maritime practice and is sufficiently flexible to keep pace with technological change.  The proposal in the Discussion Paper in 2010 that the <i>Navigation Act 1912</i> rewrite would introduce a requirement for audit of aids to navigation systems operated by any state or territory, port authority or other body, consistent with the IALA Guidelines on auditing navigational aids has not been actioned in the Navigation Bill..	The provisions of the <i>Lighthouses Act 1911</i> have been incorporated into the Navigation Bill. The <i>Lighthouses Act 1911</i> will be repealed when the Navigation Bill is passed by Parliament.  The provisions have been modernised and the definition of 'aid to marine navigation' has been updated to include physical aids like lighthouses, beacons and buoys, but also electronic aids like radar beacons, VHF marine radio, Automatic Identification System (AIS), Differential Global Positioning System (DGPS), Global Navigation Satellite Systems (GNSS), and meteorological and oceanographic sensors.
11.	The <i>Navigation Act</i> is the main legislative vehicle for implementing the MLC at the Commonwealth level. The Department is seeking to introduce legislative amendments to the <i>Navigation Act</i> in 2010 that will ensure Commonwealth compliance with the MLC	The International Labour Organisation (ILO) Maritime Labour Convention, 2006 (No. 186) (MLC) was ratified by Australia through the Department of Education, Employment and Workplace relations (DEEWR) at the 2nd meeting of the Tripartite MLC Preparatory Committee in Geneva from 12-14 December 2011. The MLC will enter into force 12 months after it has been ratified by 30 countries. Currently, 20 countries have ratified the MLC and it is expected to come into force sometime in 2013.	Chapter 2 of the Navigation Bill will apply seafarer employment provisions as well as MLC requirements, to vessels registered under the <i>Shipping Registration Act 1981</i> and which undertake overseas voyages.  The <i>Navigation Amendment Act 2011</i> amended the <i>Navigation Act 1912</i> to ensure compliance with the MLC. These provisions have flowed through to the Navigation Bill. The Navigation Bill will work in concert with provisions of the National Law Bill and relevant State and Territory legislation to give full domestic effect to the MLC
12.	Should employment matters under Part II of the Navigation Act, 1912 be removed to the new Maritime Safety Act or remain in the existing Act?	Original intent was that employment provisions would remain behind in the Navigation Act 1912. However as these provisions give effect to the MLC the decision was made to retain these provisions in the Navigation Bill.	See above number 11
13.	OH&S legislation is currently the subject of a separate COAG reform process One possible approach is that the application provisions would no longer refer to the Navigation Act for the	The Seacare Authority considers that defining the jurisdiction of the Seafarers Act and the OHS(MI) Act without reference to the Navigation Act represents the best approach to provide clarity and	No action required in the Navigation Bill

	purpose of defining the coverage of the Seacare scheme.	certainty for scheme participants in the future.	
14.	<p>Interface with the Offshore Petroleum and Greenhouse Gas Storage Act.</p> <p>The OPGGSA dis-applies the Navigation Act and the Occupational Health and Safety (Maritime Industry) Act 1993 (OHS(MI)) from the time when an offshore vessel, for example an accommodation vessel, attaches to the seabed.</p>	<p>Consistent with the Government response to the Montara Commission of Inquiry, issues relating to the disapplication of the <i>Navigation Act 1912</i> from the OPGGSA will be addressed by introducing legislation to amend the OPGGSA and relevant regulations to require ship-like petroleum facilities to comply substantively with requirements concerning seaworthiness and pollution prevention in line with requirements under international conventions and the <i>Navigation Act 1912</i>.</p>	<p>The Navigation Bill clarifies the application to offshore facilities and makes it clear that all vessels will be subject to Navigation Bill requirements, unless they are defined as facilities under the OPGGSA.</p>